

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

MONIKA JEDROL, VC 2013-SP-008 Appl. under Sect(s). 18-401 of the Zoning Ordinance to permit front yard coverage greater than 30%. Located at 6117 Lundy Pl., Burke, 22015, on approx. 11,423 sq. ft. of land zoned R-3 (Cluster). Springfield District. Tax Map 78-4 ((13)) 331. (Decision deferred from 8/7/13.) Mr. Hart moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 11, 2013; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the property.
2. The Board has heard this case a couple times.
3. Somewhere along the way, a variance application was added to it.
4. The resolution of the special permit was dependent upon the variance issues because of the problems with access and parking and turnaround.
5. Mr. Hart went out to the site to look at it, and in his judgment, the standards for a variance had been met.
6. Particularly with respect to the extraordinary condition of the lot, he made some observations.
7. This is an unusual pipestem lot.
8. The area in question is technically a front yard because it is on the side of the house that is facing the pipestem, although the area of pavement being talked about is approximately 200 feet-plus from street, and it is down a big hill.
9. The area is also somewhat concealed also by vegetation. It is very difficult to see it.
10. Up at Lundy Place, even with the GPS in the car, Mr. Hart missed it the first time through. It is hard to find this property.
11. If you were driving down Lundy Place, you would not intuitively assume that this area is a front yard of anyone's house. It is not even really a side yard. It is kind of in a backyard as this house is set behind the houses that are up on the street.
12. The widest part of this front yard is also backing up to Park Authority property.
13. It is very difficult to see it, and so at least from a starting point, there is not going to be any significant visual impact on anyone.
14. The driveway itself is also very narrow and compounds the unusual situation with respect to this property.
15. There were perhaps some questionable engineering decisions made at the time the house was built or the house was sited.

16. If the house was built as a mirror image with the garage closer to the street side, there would be a way to go into the garage and do a three-point turn and get back out to the street. But the way they built the house, with the end of the garage even with the end of the easement, there is not really a place to do a three point turn except by going on the neighbor's property.
17. The neighbor had come and testified that people used to pull on the grass to do that.
18. They have built sort of a little concrete turnaround, which the neighbor is fine with people using or he has been fine with it, but technically the bulk of it is on the neighbor's property.
19. The easement probably should have been longer to accommodate the area where the concrete turnaround is, but the Board is stuck with the situation as it is.
20. The geometry also of the placement of this house is problematic.
21. The house should have been at least five or six feet further to the right.
22. If you look at the dimensions on the plat, from the corner of the garage to the lot line is 20.9 feet, but 3.3 feet of that is within the easement.
23. Mr. Hart found that out driving down there. There was a truck parked more or less in the driveway in front of the house but sticking out into the easement a little bit so he could not really turn around. He had to back up to get back out the driveway.
24. That leaves a space of 17.6 feet between the edge of the easement and the front of the garage wall. At 17.6 feet, it is shorter than the length of a parking space. It is shorter than the length of many cars, and it is an unusual condition to have a single-family house with nowhere to park a car except inside the garage. That is affecting in some way the use of this property.
25. You would expect with a single-family house if someone came to deliver a pizza or have guests come over, something like it, you would expect they are not going to park up on the street and walk down this big hill to get to the house. They want to park up at the house. But on this lot, there is nowhere really to do it.
26. The logical place to have a place for a car to park that is not in the garage, that is not sticking out into the easement, is where they have put it. The same for a turnaround.
27. Having a place to park, having a place to turn around was essential for this lot, whether or not there is a childcare associated with it.
28. This is enough of an extraordinary condition, with a weird lot, with a technical Ordinance front yard problem, with an odd placement of the house on the lot and an easement that is too short.
29. The variance would help resolve that hardship on the owner.
30. Because of the topography, the hill, and the vegetation, the appearance of the paved area is not particularly disturbing.
31. Mr. Hart was struck by going down there was how tiny the front yard space for this house was.
32. There is really very little space between the front of the house and the lot line anyway.

33. This is not a huge area, and it is not particularly bothersome. Sometimes people pave over the front yard and you really notice it, but in a situation like this, it was concealed enough that no one would be impacted by it.
34. Although the arguments at the public hearing really were about finances and the impacts on the owner financially of having to redo the pavement, we are not really considering that for the purposes of the variance. Even if these geometry issues were not emphasized, they are present and apparent and within the scope of what has been asked for, and the Board can rely on that.
35. This kind of situation is not going to be easily repeated.
36. This is not necessarily a convenience for the owner.
37. This is alleviating a legitimate hardship.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of reasonable use of the land and/or buildings involved.

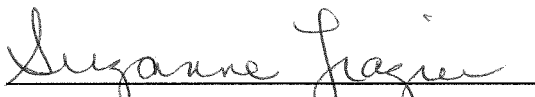
NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

1. This variance is approved for the front yard coverage as shown on the variance plat prepared by B.W. Smith and Associates, Inc., dated and sealed October 16, 2012, as revised through May 7, 2013, and noted as Option 1, as submitted with this application and is not transferrable to other land.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinance, regulations, or adopted standards.

Mr. Smith seconded the motion, which carried by a vote of 5-1. Mr. Hammack voted against the motion.

A Copy Teste:


Suzanne Frazier, Deputy Clerk
Board of Zoning Appeal